

January 10, 2003

To: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

TRIAL COURT FACILITIES ACT OF 2002

On November 12, 2002, on motion of Supervisor Antonovich, my office was instructed to report on the implementation of SB 1732. This legislation mandates the assumption of financial responsibility for the operations of the local trial courts by the State of California through the enactment of the Trial Court Facilities Act of 2002 (Act). The Act provides the framework for negotiation between the State and the County for the potential transfer of the County's courthouses to the State along with a permanent allocation of County funds to pay for operational costs. Once a payment has been negotiated, the State assumes the responsibility for future increases in costs for operation of a building.

SB 1732 is an extensive and complex piece of legislation which raises many questions for the County which will only be answered as a result of extended negotiations with the State. While the legislation mandates the transfer of the County's courthouses to the State, it does not require the State to accept the transfer of a facility. Depending on the condition of a facility, the State Judicial Council could refuse to accept a building and the responsibility would remain with the County to operate the facility. The Act provides that a building and its court facilities may be deemed deficient and not subject to transfer if any of the following exist:

- \$ a deficiency or deficiencies that constitute a significant threat to life, safety or health;
- \$ a deficiency or deficiencies that include seismically hazardous conditions with an unacceptable seismic safety rating; and

\$ deficiencies that in their totality are significant to the functionality of the facility.

The State is currently conducting an assessment of all of the County's courthouses and is ranking various building systems as either Adequate, Marginal or Deficient. Based on these rankings it is possible that the State may refuse to accept a sizable number of the 56 courthouses in the County. This is due largely to enhanced building codes and courtroom design standards over what existed when a majority of the County's courthouses were built.

The Board's motion called for a report of the requirements of the County before a transfer occurs, a timetable for implementation of the Act and an estimate of cost savings.

County Requirements Prior to Transfer

There will be no change in the County's obligation to fund the operation of the courthouse facilities prior to any transfer. The County's 2002-03 Trial Court Operations budget includes \$13.7 million for facilities maintenance of courthouses and the Utilities budget includes \$19.6 million for court operations. These amounts will need to be maintained through the period prior to any transfer. The Act requires the calculation of an annual payment to the State for ongoing support of the transferred facilities.

The payment calculation will be based on "actual direct and indirect County expenditures on court facilities" which could go beyond the amount in the Trial Court Operations and Utilities budgets. The Act specifically includes the following in the payment calculation, but is not limited to:

- \$ maintenance and repair of buildings including utility systems, security equipment and interior and exterior lighting;
- \$ purchase, installation, modernization and maintenance of major building systems not of an ongoing nature;
- \$ special repairs;
- \$ landscaping and grounds maintenance;
- \$ maintenance of parking spaces or garages dedicated to the Superior Court or for jurors; and

- \$ County facility management and administrative costs for management, supervision, planning, design, department administration, payroll, finance, procurement and program management.

These items will be calculated from an average of 1995-96 through 1999-2000 actual expenditures to the date of transfer of a specific courthouse and adjusted for inflation.

Implementation Timetable

Key milestones contained in the Act are:

- \$ The County must designate by July 1, 2003, the personnel who will negotiate with State Judicial Council the transfer agreements for each courthouse on a building by building basis;
- \$ The Judicial Council will negotiate the transfer agreements with the County between July 1, 2003 and June 30, 2007;
- \$ No transfer can occur before July 1, 2004; and
- \$ Transfers must be completed by June 30, 2007.

Cost Savings

It is not clear whether there will be any initial savings from transfer of the courthouses due to the Act's expansive list of activities to be included in the calculation of the County's base payment to the State. Depending on the results of the negotiations for each facility, the County could either be held harmless or be required to pay more than if the transfer did not happen. While each party has the ability to appeal the transfer agreement for a facility as approved by the State Department of Finance, the State has the ultimate authority to set the terms of a transfer agreement.

Once the base payment has been established, though, the State is responsible for all future cost increases for the operations of the trial courts it has accepted.

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Next Steps

To date the State has not provided any information about how the transfer negotiations will proceed. Staff of the State Judicial Council has informally indicated that they will be communicating with the counties some time this month regarding their planning.

Internally, my office will be working with the Superior Court and affected County departments, which include Internal Services, Auditor-Controller, Public Works, County Counsel and all courthouse tenants, to prepare for the negotiations and recommend a negotiating team as required by the Act.

As contained in the Board motion, we will report back quarterly on implementation progress. Attached for your information is a summary of the pertinent sections of the Act.

If you have any questions, please let me know.

DEJ:SNY
JSE:i/g

Attachment

c: Executive Office, Board of Supervisors
Auditor-Controller
County Counsel
Internal Services
Public Works